



# Maine Forest Products Council

*The voice of Maine's forest economy*

## Companies represented on the MFPC Board

American Forest Mgmt.  
Baskahegan Co.  
BBC Lands LLC  
Bradbury Forest Mgmt.  
Columbia Forest Prod.  
Cross Insurance  
Family Forestry  
Farm Credit East  
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Pingree Associates  
Pixelle Specialty Sol.  
Pleasant River Lumber  
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Timber Resource Group  
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Wadsworth Woodlands  
Wagner Forest Mgt.  
Weyerhaeuser

## Testimony opposing LD 188 An Act Regarding the Transportation of Products in the Forest Products Industry

February 23, 2021

**Patrick Strauch, Executive Director**

Senator Chipman, Representative Terry, and distinguished members of the Taxation Committee, I am Patrick Strauch, executive director of the Maine Forest Products Council (MFPC), which has been the voice of Maine's forest economy. Since 1961. We speak for logging contractors, sawmills, paper mills, biomass energy facilities, pellet manufacturers, furniture manufacturers, and on behalf of more than eight million acres of commercial forestland in Maine.

MFPC opposes LD 188 because it seeks to use the Tree Growth Tax Program to penalize landowners who hire independent contractors to move wood products if the contractors drivers violate cabotage laws, the point-to-point transportation of property or passengers within one country.

There are numerous problems with this proposal but I will start with the implications for the Tree Growth Tax Law.

### TREE GROWTH TAX LAW IMPLICATIONS

Tree Growth is one of Maine's most successful and productive programs. Since 1969 it has achieved the goals the Legislature intended. It is a current use taxation law, similar to the working waterfront, farm and open space programs. ([See Maine's Tree Growth Tax Law: The Basics 2021 by the Maine Forest Service.](#))

The program promotes better forest management and encourages landowners to retain and improve their forestland holdings. It's essential that this program be stable from year to year, not rewritten because of the trends, issues or the concerns for a single legislative session.

In addition, LD 188 would discriminate against an entire class of landowners since it would set different regulations for those who own more than 50,000 acres of land. Tree Growth always has been and should remain applicable and consistent across ownership sizes.

Expulsion from the program will not only increase the tax rate, penalties will be assessed. Three violations of federal transport delivery laws force a state penalty that will be excessively out of proportion to the alleged crime. Even a small differential between the Tree Growth rate and the ad valorem rate is large when multiplied by landowners of greater than 50,000 acres.

### CABOTAGE LAW CONSIDERATIONS

Those of you who served in the 129<sup>th</sup> Legislature may remember that Sen. Jackson submitted a similar bill, LD 2061, last session, similarly focused on Canadian workers who have H-2A visas (*See charts, Page 3.*) So I think it's important that you understand

that it is perfectly legal for H-2A truck drivers to deliver loads within the State, including point to point deliveries of forest products.

It is also important to note that this entire issue is predicated on the presence of **ONLY 12** H2A bonded drivers that were admitted into Maine with H2B visas. (*MDOL Chart at right*) Maine has an estimated 3,652 employees in the forest logging and trucking category.<sup>1</sup> This subset of Canadian bonded laborers is small and the bonding process ensures no US worker is displaced.

The cross-border trucking guidelines make it clear that the **cabotage rules apply only to Canadian truckers who enter the U.S. on a B-1 (business) visa.**<sup>2</sup> The cabotage rules do **NOT** apply to other visa categories, such as H-2A and H-2B. Indeed, there would be no need for a trucking employer to go through the expensive, difficult and lengthy process of obtaining an H-2A visa, if these truckers were not allowed to haul point to point within the U.S.

### LANDOWNER ENFORCEMENT

Landowners often contract for trucking services with firms that manage their own fleet of trucks as well as independent truckers. Landowners' contracts stipulate that contractors **must follow all state and federal laws** and they can cancel a contract if a firm is in violation of these laws.

There is no practical way for landowners to enforce cabotage regulations by contractors any more than they can enforce speed limits or trip log regulations. The [Department of Homeland Security \(DHS\) and Customs and Border Protection](#) (CBP) maintains jurisdiction over the operations of foreign carriers, vehicles and drivers operating within the United States, including the prohibition on providing domestic point-to-point transportation. The CBP regulation that prohibits a foreign motor carrier from engaging in U.S. (domestic) point-to-point transportation is found at [19 CFR § 123.14\(c\)](#). See [Guidelines for Compliance of Commercial Motor Vehicles](#). It is the job of the U.S. Department of Transportation to enforce cabotage laws. If violations result in convictions, then landowners can terminate contracts. It is the job of government to enforce regulations

### SUMMARY

MFPC opposes this bill because it is unnecessary, unfair and proposes to use the Tree Growth Tax program in a way that was never intended. Landowners ensure it is written into their contracts with contractors that all state and federal laws and regulations must be followed. In our experience, the limited number of trucking companies using H2A drivers have been incredibly careful, as demonstrated by recent audits, to comply with regulations regarding transportation of forest products in Maine. In fact, the driver implicated in Senator Jackson's presentation video ("Marco") was investigated by the Maine Forest Service Rangers after complaints were received, and found to be in full compliance with the law.

We urge the committee vote ought not to pass on LD 125.

cc: [MFPC Testimony in the 129<sup>th</sup> Legislature on LD 2061 An Act Regarding the Transportation of Products in the Forest Products Industry](#)

[MFPC Letter to the Taxation Committee, Feb. 18, 2020](#)

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<sup>1</sup> Maine Logger and Log Trucker Employment Availability and Wage Analysis Report, prepared for the Professional Logging Contractors of Maine, by the Maine Center for Business and Economic Research University of Southern Maine, February 2019. <https://maineloggers.com/new/wp-content/uploads/2019/03/Professional-Logging-Contractors-of-Maine-Occupational-Wage-Analysis-Data-Appendix-FINAL.pdf>

<sup>2</sup> <https://www.dhs.gov/xlibrary/assets/policy/dhs-cross-border-trucking-guidelines.pdf>

**Foreign labor related logging job orders filed with  
Maine Labor Department\***

Year	Employers	Job orders**	# Workers Requested and Positions Filled
2004	53	218	618
2005	45	190	594
2006	49	186	662
2007	47	211	675
2008	47	192	594
2009	37	155	477
2010	9	32	91
2011	11	32	80
2012	13	38	102
2013	8	22	68 (43)
2014	7	22	65 (47)
2015	8	27	85 (61)
2016	8	23	74 (48)
2017	11	33	89 (40)
2018	9	32	90 (50)
2019	9	33	89 (33)
2020	9	30	97 (47)**

*\* Jobs are advertised first for American workers in the local area. \*\*Job orders represent a single type of machinery classification, such as log loader, fellerbuncher, delimeter or skidder. Each order is likely to include multiple workers using that type of machinery. The Maine Department of Labor documents the equipment and certifies the workers. Source: Maine Department of Labor, Aug. 19, 2020.*

*\*\*Includes 20 truck driver positions requested, 11 filled.*

Year*	H-2A truckers	Violations
2016-2017	9	0
2017-2018	14	0
2018-2019	14	0
2019-2020	11	0
2020-2021	12	0

*Source: Maine Department of Labor*

*\*Season ends in April*